

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTER

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DATE

July 30, 2008

MOTOR CARRIER MATTER

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DOCKET NO.

2007-401-E

UTILITIES MATTER

☒

ORDER NO.

SUBJECT:

DOCKET NO. 2007-401-E - Application of Beatrice Wallenstein (a/k/a Beatrice Weaver) for Change in Electric Service Provider – Discuss with the Commission Carolina Power and Light Company d/b/a Progress Energy Carolinas, Incorporated's Petition to Postpone Hearing.

COMMISSION ACTION:

On July 25, 2008, Progress Energy Carolinas, Inc. filed a motion to postpone the hearing in Docket No. 2007-401-E, which is currently scheduled to take place Tuesday, August 5, 2008 at 2:30 p.m. Progress's motion was based upon the facts that the Petitioner has filed no prefiled testimony in this docket as required under Commission rules, and that if the Petitioner were allowed to testify, Progress would be prejudiced by not having been afforded the opportunity to prepare for the hearing using the Petitioner's prefired testimony. Progress requested that the Commission postpone the hearing, contact the Petitioner and ask whether she still desires a hearing, and if so, establish a new schedule for prefiling testimony and a new hearing date. I move that we deny Progress' motion to postpone the hearing or establish a new schedule for prefiling testimony.

On July 28, 2008, Marlboro Electric Cooperative proposed that the scheduled hearing go forward on August 5, and that the Petitioner be permitted to adopt the proffered testimony of Gary Weaver in lieu of her own prefired testimony. In our directive dated May 28, 2008, we had granted Progress's motion to strike Mr. Weaver's prefired direct and rebuttal testimony and denied Mr. Weaver's motion to join and intervene as a party. The Cooperative apparently proposes this accommodation to the Petitioner in an effort to conclude this matter on schedule for the benefit of all the parties. The Cooperative further represents to us that Progress and the Office of Regulatory Staff have no objection to this proposal. The Petitioner has been served with a copy of the letter proposal, but has not responded.

I agree that the interests of judicial economy and the interests of the parties in having this matter move forward would be advanced by holding the hearing as scheduled, without further delay. Accordingly, I move that we grant the request of the Marlboro Electric Cooperative that the hearing go forward on August 5, and that Petitioner be afforded the opportunity to adopt portions of the testimony of Mr. Gary Weaver, where such testimony would be logically and appropriately attributable to her, based upon her first-hand knowledge, and where she desires to adopt such testimony. If she wishes to adopt portions of Mr. Weaver's testimony, the Petitioner must, by the close of business on Friday, August 1, 2008, file with the Commission a document designating by document, page, and line number those portions of Mr. Weaver's testimony which she wishes to adopt as her own. She will not be permitted to file new testimony above or beyond that testimony previously filed by Mr. Weaver.

Progress Energy and Marlboro Electric Cooperative have reserved their right to make any legally applicable objections to the adopted testimony, and they may make these objections before or in the course of the hearing. When the subject testimony was proffered by Mr. Weaver, this Commission ruled to strike it since it contained hearsay which was not based upon personal knowledge as to the quality of service provided by Progress Energy after Mr. Weaver left the residence, and since it repeated allegations which were already disposed of in our Docket No. 2004-219-E.

In spite of Commission requirements to do so, Petitioner has filed no pre-filed testimony. If the Petitioner desires to adopt as her own any portion of Mr. Weaver's testimony, she must file her designation of those portions of Mr. Weaver's testimony which she wishes to adopt by close of business (4:45p.m.) on Friday, August 1, 2008, or she will be deemed to be in continued violation of this Commission's rules requiring the filing of pre-filed testimony.

PRESIDING: Fleming

SESSION: Regular

TIME: 2:30 p.m.

	MOTION	YES	NO	OTHER
CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

WRIGHT



RECORDED BY: J. Schmieding